



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 173494

PRELIMINARY RECITALS

Pursuant to a petition filed on April 4, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services regarding Medical Assistance. The hearing was held on June 21, 2016, by telephone.

The issue for determination is whether Petitioner's appeal is timely to contest a Medicaid/BadgerCare+ overpayment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

Petitioner and his spouse both received the same Medicaid/BC+ overpayment notices. She represented Petitioner at the hearing but separate decision is required. See case # 173497.

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner was sent 2 Medicaid/BadgerCare+ overpayment notices. Both are dated June 23, 2015. One indicates Petitioner was overissued Medicaid/BC+ in the amount of \$1733.67 and the other that she was overissued Medicaid/BadgerCare+ in the amount of \$3451.52. Both are for the time period of August 1, 2014 to February 28, 2015. Both were sent to Petitioner at the above address and do contain appeal instructions. The appeal deadline is noted to be August 7, 2015.
3. This appeal was filed on April 4, 2016.

DISCUSSION

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. It does not have authority where an appeal is untimely. By law a timely hearing request concerning Medical Assistance matters must be filed within 45 days of the notice of the agency decision. §49.45(5)(a), *Wis. Stats.* The Division of Hearings and Appeals does not have authority to expand this time limit were a notice has been issued. This hearing request was filed about 8 months past the August 7, 2015 deadline for appealing the June 23, 2015 overpayment notices. I must, therefore, conclude that the appeal is untimely and the Division of Hearings and Appeals no longer has legal authority to decide the underlying overpayment.

CONCLUSIONS OF LAW

That this appeal is untimely.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

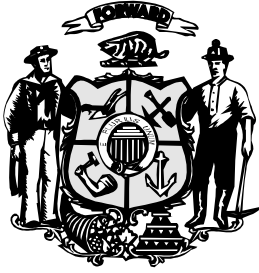
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES

IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of July, 2016

\s _____
David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on July 26, 2016.

Washington County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability